

REPORT AND DECISION ON THE FOURTH
AMENDMENT TO AN APPLICATION FOR
AUTHORIZATION AND APPROVAL OF A
PROJECT UNDER CHAPTER 121A OF THE
GENERAL LAWS OF THE COMMONWEALTH
OF MASSACHUSETTS AND CHAPTER 652
OF THE ACTS OF 1960 AND FOR CONSENT
TO THE FORMATION OF SUMMER STREET
REALTY CORPORATION

The Application for Authorization and Approval of a Project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 and for Consent to the Formation of Summer Street Realty Corporation was approved by the Boston Redevelopment Authority by its Report and Decision on February 23, 1973. The Report and Decision was approved by His Honor, the Mayor of the City of Boston, on March 1, 1973.

On March 15, 1973, the Authority approved and adopted a First Amendment to the original Application and Report and Decision which Amendment provided that the 121A Corporation, Summer Street Realty Corporation, be permitted to issue 10,000 common shares of stock without par value rather than 100,000 common shares having a par value of One Hundred (\$100.00) Dollars each.

On July 5, 1979, the Authority approved and adopted a Second and Third Amendment to the original Application. The Second Amendment provided that Summer Street Realty be granted a deviation from Article 11 of the Boston Zoning Ordinance so as to permit the placement of the Stone and Webster insignia on the penthouse of the Stone and Webster office building. The Third Amendment provided the necessary approval of Summer Realty's transfer to the MBTA of a small portion of its property needed for the construction of the South Station Transportation Terminal.

On August 1, 1979, Summer Street Realty Corporation submitted its Application for a Fourth Amendment. This Application requests that the original Application be amended to permit such deviations from the maximum floor area ratio requirements

and, if applicable, from the minimum parapet setback and yard requirements of the Boston Zoning Ordinance, and from any other provisions of said Zoning Ordinance as are necessary to provide that Summer Street Realty Corporation's current maximum gross floor area for its Project of 950,000 square feet, is maintained in full compliance with the provisions of said Zoning Ordinance.

The effect of the deviations proposed by this Fourth Amendment on the Project and the Project Area has been reviewed and approved by the Authority staff. Summer Street Realty Corporation and the Authority staff are in agreement that such deviations will not derogate substantially from, and are wholly consonant with, the intent and purpose of said Zoning Ordinance.

It is the opinion of the General Counsel that the proposed Fourth Amendment does not represent a fundamental change nor does it substantially or materially alter the original Application regarding the proposed use of the Project Area and therefore does not require a public hearing.

Accordingly, the Application and the Authority's Report and Decision thereon are hereby amended so as to approve and authorize such deviations from the maximum floor area ratio requirements, the minimum parapet setback and yard requirements, and any other provisions of the Boston Zoning Ordinance which are necessary to provide that the current maximum gross floor area of Summer Street Realty Corporation's Project of 950,000 square feet, is maintained in full compliance with the provisions of said Ordinance. Said deviations are permitted expressly without reliance upon or by giving any effect to Article 15, Section 6 of said Ordinance.

APPLICATION FOR

FOURTH AMENDMENT TO AN APPLICATION
FOR AUTHORIZATION AND APPROVAL OF A
PROJECT UNDER CHAPTER 121A OF THE
GENERAL LAWS OF THE COMMONWEALTH OF
MASSACHUSETTS AND CHAPTER 652 OF
THE ACTS OF 1960 AND FOR CONSENT TO
THE FORMATION OF SUMMER STREET
REALTY CORPORATION

WHEREAS, the undersigned, Summer Street Realty Corporation ("Summer Realty"), is a corporation duly formed and existing under a certain "Application for Authorization and Approval of a Project under Mass. G.L. (Ter. Ed.) Chapter 121A, as amended, and Chapter 652 of the Acts of 1960, for Consent to the Formation of a Corporation under the provisions of said Chapter 121A, for the Tentative Designation of such 121A Corporation as Redeveloper of the Project Area, and for the Execution and Delivery of a Land Disposition Agreement concerning the Project Area" dated January 26, 1973 and filed with the Boston Redevelopment Authority (the "Authority") on February 1, 1973 (as amended by a First Amendment dated March 15, 1973 and Second and Third Amendments dated June 22, 1979, the "Application") and under a certain "Report and Decision on an Application for Authorization and Approval of Project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 and for Consent to Formation of Summer Street Realty Corporation" as adopted by the Authority on February 23, 1973 and approved by his Honor the Mayor of the City of Boston

on March 1, 1973 (as amended by a vote of the Authority on March 15, 1973 approved by the Mayor on March 23, 1979 adopting and approving the First Amendment to the Application and votes of the Authority on July 5, 1979, approved by the Mayor on July 20, 1979, adopting and approving the Second and Third Amendments to the Application, the "Report and Decision"); and

WHEREAS, the Authority and Summer Realty have entered into an Agreement by and among themselves, the Massachusetts Bay Transportation Authority (the "MBTA") and the U. S. Postal Service dated June 4, 1979 (the "Agreement"), which Agreement was made in contemplation of the conveyance by Summer Realty to the MBTA for nominal consideration of a parcel of land (the "MBTA Area") along the westerly or plaza end of the Project Area, all as more particularly described in the Third Amendment to the Application as voted by the Authority;

WHEREAS, the Agreement was also made in contemplation of the conveyance by the Authority to the MBTA of the so-called South Station property adjacent to the Project Area, which property is subject to a restriction for the benefit of the Project Area as contained in paragraph (e)(1) of the Authority's Deed of the Project Area to Summer Realty (recorded with the Suffolk County Registry of Deeds in Book 8661, at Page 436) limiting the aggregate gross floor area of structures on said property and certain other land in the South Station Urban Renewal Area; and

WHEREAS, said restriction was imposed solely for the purpose of providing Summer Street and the Project with assurance of continued technical compliance with and entitlement to the

benefits of Section 15-6 of the City of Boston Zoning Ordinance (the "Zoning Code"), which purpose can be equally well served by the granting of permission for the Project to deviate from the so-called floor area ratio requirements of the Zoning Code; and

WHEREAS, the MBTA is reluctant to accept a deed to said South Station property containing said restriction as required by paragraph (f) of said Deed

NOW THEREFORE, Summer Realty hereby applies, pursuant to said Chapter 121A, said 652 of the Acts of 1960 and the applicable rules and regulations of the Authority, for the adoption and approval of this Fourth Amendment to the Application and for the appropriate amendment of the Report and Decision to the extent necessary to permit such deviations from the maximum floor area ratio requirements and, if applicable, from the minimum parapet setback and yard requirements of the Zoning Code and any other provisions of the Zoning Code as applicable to the Project Area which may result from the conveyance of the MBTA Area to the MBTA (or from any conveyance of the plaza portion of the Project Area to the Authority or to the MBTA which may be required pursuant to the Design Review Agreement between Summer Realty and the Authority as contemplated by Paragraph A.6 of the Agreement) and which may be necessary to maintain the current maximum gross floor area of the Project of 950,000 square feet. Summer Street requests that such deviation be permitted expressly without reliance upon or giving any effect to said Section 15-6 of the Zoning Code. Summer Realty is of the view that such deviations will not derogate substantially from, and will be wholly consonant with, the intent and purpose of said Ordinance.

Summer Realty also respectfully requests that the Authority specifically find that the foregoing does not constitute a substantial or fundamental amendment to the Application or the Report and Decision.

Executed this first day of August, 1979.

SUMMER STREET REALTY CORPORATION

By: Walter F. Nolan
Walter F. Nolan
Treasurer
245 Summer Street
Boston, Massachusetts 02107

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

August 1, 1979

Then personally appeared the above-named Walter F. Nolan who, being duly sworn, made oath that to the best of his knowledge and belief the statements contained in the foregoing instrument are true, before me,

Stephen P. Lindsay
Notary Public STEPHEN P. LINDSAY
My commission expires: November 22, 1979

MEMORANDUM

August 2, 1979

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: FOURTH AMENDMENT TO REPORT AND DECISION OF
CHAPTER 121A APPLICATION OF SUMMER STREET
REALTY CORPORATION

On February 23, 1973, the Authority approved the 121A Application of Summer Street Realty Corporation which proposed the construction of the Stone and Webster office building in the South Station Urban Renewal Area. The first amendment to that application, which concerned the issuance of the common shares of corporate stock, was approved on March 15, 1973.

On June 22, 1979, Summer Street Realty requested the Authority's approval of a Second and Third Amendment to its original 121A Application. The Application for a Second Amendment requested approval of a deviation from Article 11 of the Boston Zoning Ordinance so as to permit the placement of the Stone and Webster insignia on the penthouse of the Stone and Webster office building. The Application for a Third Amendment requested approval of Summer Street Realty's transfer to the MBTA of a small portion of its property needed for the construction of the South Station Transportation Terminal. On July 5, 1979, the Authority approved the above-described Second and Third Amendments.

Application for a Fourth Amendment to Summer Street Realty's original 121A Application is now being made so as to resolve certain title problems involved in concluding the conveyance of the South Station property to the MBTA. The office building on Summer Street Realty's property, the Stone and Webster office building, complies with the maximum floor area ratio requirements of the Boston Zoning Ordinance pursuant to Article 15, Section 6 of that ordinance. Summer Street Realty's continuing compliance with the above Article 15 requires inclusion of restrictive language in the Authority's deed of the South Station property to the MBTA. Since inclusion of such language could have an inhibiting effect on the development of South Station by the MBTA, Summer Street Realty is now applying for a Fourth Amendment to its original 121A Application which requests that the Authority, pursuant to Section 13 of Chapter 652 of the Acts of 1960, approve and authorize a deviation from Article 15 of the Boston Zoning Ordinance so as to confirm that the floor area ratio of the Stone and Webster office building is in compliance with the provisions of Article 15.

Approval by the Authority of this Fourth Amendment will obviate the need for including restrictive language in the South Station deed and therefore will facilitate the timely conveyance of South Station to the MBTA.

In the opinion of the General Counsel, the proposed Fourth Amendment does not represent a fundamental change in the original 121A Application and does not require a public hearing. It is therefore recommended that the Authority approve and adopt the attached Fourth Amendment to Summer Street Realty's 121A Application and Report and Decision.

An appropriate Vote follows:

VOTED: That the Amendment presented at this meeting and contained in the attached "Report and Decision on the Fourth Amendment to an application for authorization and approval of a project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 and for consent to the formation of Summer Street Realty Corporation" be and hereby is approved and adopted.

VOTED: That transmittal of the attached "Report and Decision on the Fourth Amendment to an Application for authorization and approval of a project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 and for consent to the formation of Summer Street Realty Corporation" to the Mayor, for his approval and signature, shall take place upon receipt by the Authority of a release from Summer Street Realty Corporation of its rights contained in paragraph (e)(1) of a Deed from the Authority to Summer Street Realty Corporation.

